IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 6832 of 2007(L)

PETITIONERS:

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1. SUMA ROY, AGED 37 YEARS,
   W/O ROY, RESIDING AT PULIMCHUVATTIL HOUSE,
   KADUTHURUTHY VILLAGE, VELLASSERY KARA,
   VAIKOM TALUK, KOTTAYAM DISTRICT.

2. P.A.ROY,
   AGED 42 YEARS, S/O ABRAHAM,
   RESIDING AT PULIMCHUVATTIL HOUSE,
   KADUTHURUTHY VILLAGE, VELLASSERY KARA,
   VAIKOM TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.P.K.MURALEEDHARAN
SRI.SUNU P.JOHN
SRI.P.M.NATESAN

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY
   THE DISTRICT COLLECTOR, KOTTAYAM,
   CIVIL STATION KOTTAYAM-1.

2. THE DEPUTY TAHSILDAR (RR),
   VAIKOM TALUK, VAIKO, P.O.,
   KOTTAYAM.

3. THE VILLAGE OFFICER,
   KADUTHURUTHY VILLAGE, KADUTHURUTHY VAIKOM.

4. THE EXECUTIVE ENGINEER,
   ELECTRICAL DIVISION,
   KSEB, VAIKOM, KOTTAYAM.

5. M.K.MARY, W/O JOHN,
   AGED 60 YEARS, MATTAMMEL HOUSE, KAKKANADU KARA,
   THRIKKAKARA P.O., VAZHAKKALA VILLAGE,
   KANAYANNUR TALUK, ERNAKULAM.

6. BINU JOHN, S/O.M.K.MARY,
AGED 31 YEARS, MATTAMMEL HOUSE,
KAKKANADU KARA, THRIKKAKARA P.O.,
VAZHAKKALA VILLAGE, KANAYANNUR TALUK,
ERNAKULAM.

BY GOVERNMENT PLEADER SMT. N.SUDHADEVI
SRI.JOSE J.MATHEIKKAL, SC.K.S.E.B.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.6832 of 2007-L

Dated this the Ist day of March, 2007

JUDGMENT

The petitioners were the owners of a factory and building. They transferred it in favour of respondents 5 and 6, under Ext.P1 agreement dated 27-12-2004. There were some electricity bills outstanding on the date of transfer of the said establishment in favour of the said respondents. As per Ext.P1 agreement, the said respondents agreed to pay those arrears also. While so, the petitioners have been served with Exts.P2 and P3 revenue recovery notices claiming arrears of electricity charges for the period from July 2003 to October, 2004. The said demand admittedly relates to the period when the petitioners were in possession of the industrial unit. The petitioners attack Exts.P2 and P3, relying on Ext.P1 agreement. They submit, the K.S.E.B. may be directed to proceed against the assets of the industrial unit.

2. I heard the learned Standing Counsel for the K.S.E.B.

3. In any view of the matter the petitioners are liable to pay the electricity charges for the period covered by Exts.P2 and P3. Of course, under Ext.P1, respondents 5 and 6 have undertaken to pay the same. But, the K.S.E.B. is not bound by the said contract between the

petitioners and the said respondents. There is no privity of contract between the K.S.E.B. and the said respondents. Therefore, I find nothing illegal with the revenue recovery notices.

4. The K.S.E.B. is empowered to proceed against all the assets of the defaulters. Therefore, if revenue recovery steps are taken against other assets of the petitioners, the same cannot be described as illegal. But, the second respondent is directed to proceed against the land and building covered by Ext.P1 also, simultaneously.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS